



DEPARTMENT OF LABOR &  
INDUSTRIAL RELATIONS



LABOR LAW REQUIREMENTS  
*for*  
NEW EMPLOYERS

## DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS LABOR LAW REQUIREMENTS FOR NEW EMPLOYERS

Congratulations on your new business and becoming a new employer. To support your endeavor for a successful business and promoting Hawai'i's economy, the Department of Labor and Industrial Relations (DLIR) has created this site to provide new employers with clear and easy-to-access information on how to comply with the labor law requirements of the State of Hawai'i. We hope you will find this information helpful. If you have any questions or need more information, please contact or visit us at the following locations:

**DLIR Website:** [http:// labor.hawaii.gov](http://labor.hawaii.gov)

**Email:** [dliir.director@hawaii.gov](mailto:dliir.director@hawaii.gov)

### **OAHU:**

Princess Ruth Keelikolani Building  
830 Punchbowl Street, Room 321  
Honolulu, HI 96813  
Phone: (808) 586-8842

### **KAUAI:**

Kauai District Office  
3060 Eiwa Street, Room 202  
Lihue, HI 96766  
Phone: (808) 274-3351

### **HILO:**

Hawaii District Office  
75 Aupuni Street, Room 108  
Hilo, HI 96720  
Phone: (808) 974-6464

### **KONA:**

Kona District Office  
81-990 Halekii Street, Room 2087  
Kealahou, HI 96750  
Phone: (808) 322-4808

### **MAUI, MOLOKAI, LANAI:**

Maui District Office  
2264 Aupuni Street Wailuku,  
HI 96793  
Phone: (808) 984-2072

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## WHAT DO I NEED TO PROVIDE MY EMPLOYEES?

### **“NOTICE TO EMPLOYEES”**

You must publicly display certain information for employees, which explains what their rights and benefits are. The DLIR has a free, all-in-one poster which includes required information on: Wage and Hour, Disability Compensation, Occupational Safety and Health, employment discrimination and whistleblower protection laws, Unemployment Insurance, business/plant closings, and military leave.

You can also download the required information from the DLIR website, <http://labor.hawaii.gov/labor-law-poster/> or obtain a copy of the all-in-one poster by calling or visiting the locations noted above.

### **WORKER’S COMPENSATION (WC) COVERAGE**

#### **What is the purpose of WC coverage?**

The purpose of WC is to provide employees with medical care and partial wage loss replacement for a work-related injury/illness.

#### **Who is required to provide WC coverage?**

Any employer having one or more workers, full-time or part-time, permanent or temporary, is required to provide WC coverage.

#### **How do I provide WC coverage to my employees?**

An employer can secure WC coverage by:

- Purchasing insurance from a carrier authorized to provide WC insurance in Hawai’i; or
- Becoming a self-insured employer, who pays benefits as required under the law, directly to injured workers. The employer must show proof of solvency and the ability to pay benefits.

#### **Who pays the premium?**

Employers pay the full cost of the premium. Employees cannot be assessed for any portion of an employer's WC insurance premium.

**When a work injury is reported to me, what do I need to do?**

An employer must file an "Employer's Report of Industrial Injury" form (WC-1) with their WC insurance carrier. The WC-1 form must be submitted to the Department of Labor and Industrial Relations within seven (7) working days after the injury to avoid a possible penalty of up to \$5,000 for late or non-filing.

Each employer shall post and maintain in places readily accessible to employees a printed statement concerning benefit rights, claims for benefits, and such other matters relating to the administration of the workers' compensation law. Each employer shall furnish within three (3) working days of notice of injury to each injured employee a copy of the brochure, Hawaii Workers' Compensation Law (Highlights).

**If determined to be eligible, what WC benefits will my employees receive?**

The WC insurance carrier will pay wage loss benefits at 66-2/3% of the employee's average weekly wage from the 4<sup>th</sup> day of the disability period for as long as an attending physician certifies disability from work. Medical treatment for the work related injury will also be paid.

**TEMPORARY DISABILITY INSURANCE (TDI)****What is the purpose of TDI coverage?**

The Hawaii Temporary Disability Insurance (TDI) law was enacted in 1969, which requires employers to provide partial "wage replacement" insurance coverage to their eligible employees for non-work-related sickness or injury (including pregnancy). This means that if an employee is unable to work because of an off-the-job sickness or injury and that employee meets the qualifying conditions of the law, the disabled employee will be paid disability or sick leave benefits to partially replace the wages lost. TDI, however, does not include medical care.

**What are the eligibility requirements for TDI benefits?**

To be eligible for TDI benefits, an employee must have at least 14 weeks of Hawaii employment during each of which the employee was paid for 20 hours or more and earned not less than \$400 in the 52 weeks preceding the first day of disability. The 14 weeks need not be consecutive nor with only one employer. The employee must also be in current employment to be eligible.

Some employees are excluded from coverage such as the employees of the federal government, certain domestic workers, insurance agents and real estate salespersons paid solely on a commission basis, individuals under 18 years of age in the delivery or distribution of newspapers, certain family employees, student nurses, interns and workers in other categories specifically excluded by the law.

**How do I provide TDI coverage to my eligible employees?**

You may purchase a policy from one of the authorized TDI carriers.

**Who pays the premium?**

You can either pay the entire premium, or charge 50% of the premium (not to exceed .5% of weekly wages) to eligible employees.

**When a disability is reported to me, what do I need to do?**

- Provide a copy of the TDI-45 form to the employee. You should obtain a copy of this claim form from your TDI carrier for the disabled employee.
- After Part A (Claimant's Statement) and Part C (Doctor's Statement) are done, complete Part B (Employer's Statement) and forward the TDI-45 form to your TDI carrier for processing.

**If determined to be eligible, what TDI benefits will my employees receive?**

The TDI carrier will pay benefits at 58% of the employee's average weekly wage from the 8<sup>th</sup> day of the disability period (there is a 7-day waiting period) for a maximum of 26 weeks within any benefit year.

**PREPAID HEALTH CARE (PHC)****What is the purpose of PHC coverage?**

Originally enacted in 1974, the Hawaii PHC Act was the first in the nation to set minimum standards of health care benefits for workers. Employers, excluding Federal, State and City government and other categories specifically excluded by the law (Chapters 393-5 and 393-6, Hawaii Revised Statutes) are required to provide Hawaii employees who suffer a disability due to non-work related illness or injury, with adequate medical coverage for this type of illness or injury, thereby protecting them from the high cost of medical and hospital care.

Employers must provide health care coverage to employees who work at least twenty (20) hours per week and earn 86.67 times the current Hawaii minimum wage a month ( $\$7.25 \times 86.67 = \$628$ ). Coverage commences after four (4) consecutive weeks of employment or the earliest time thereafter.

**How do I provide PHC coverage to my eligible employees?**

You can purchase an approved health plan from one of the authorized health care contractors (see Attachment 4).

**Who pays the premium?**

You can either pay the entire premium, or share the cost of the premium with eligible employees. The employee's share of the premium [for single coverage] is limited to 1.5% of their monthly gross wages, not to exceed 50% of the monthly premium.

**Do I need to provide health care coverage to dependents? Who pays the premium?**

It depends on whether your group health plan is a 7(a), or 7(b) type plan. Generally, 7(a) type plans are better plans in terms of the benefits offered to the employee. If you have a 7(a) type plan, you do not have to offer family coverage. If you do offer family coverage,

any additional premium for the dependents' coverage can be charged entirely to the employee.

If you have a 7(b) type plan, you must provide family coverage, if requested. In addition, you have to pay 50% of the extra premium for the employee to cover his/her dependents.

**When a disability is reported to me, what do I need to do?**

If it is non-work related disability, advise the disabled employee to seek medical treatment through the company's group health insurance plan. If it is a work-related disability, refer to the section on Workers' Compensation.

**If enrolled, what PHC benefits will my employees receive?**

The health benefits available to the eligible and enrolled employees are specified in your group plan.

**Contact Information for the Disability Compensation Division**

Visit our website at: <http://labor.hawaii.gov/dcd>

Email: [dliir.workcomp@hawaii.gov](mailto:dliir.workcomp@hawaii.gov) (WC), [dliir.tempdisabilityins@hawaii.gov](mailto:dliir.tempdisabilityins@hawaii.gov) (TDI), [dliir.prepaidhealthcare@hawaii.gov](mailto:dliir.prepaidhealthcare@hawaii.gov) (PHC)

Or contact:

**Oahu**

830 Punchbowl Street, Room 209  
Honolulu, HI 96813  
Phone: (808) 586-9161 (WC) /  
(808) 586-9188 (TDI, PHC)  
Fax: (808) 586-8766

**Maui / Molokai / Lanai**

2264 Aupuni Street  
Wailuku, HI 96793  
Phone: (808) 243-5322  
Fax: (808) 984-2071

**Hilo**

75 Aupuni Street, Room 108  
Hilo, HI 96720  
Phone: (808) 974-6464  
Fax: (808) 974-6460

**Kona**

Post Office Box 49  
Kealahou, HI 96750  
Phone: (808) 322-4808  
Fax: (808) 322-4813

**Kauai**

3060 Eiwa Street, Room 202  
Lihue, Hawaii 96766-1 887  
Phone: (808) 274-3351  
Fax: (808) 274-3351

## UNEMPLOYMENT INSURANCE

### What is Unemployment Insurance?

The objective of the Unemployment Insurance (UI) program is to provide temporary financial assistance to workers who are involuntarily unemployed until they find new work. Unlike welfare which is based on need, jobless benefits are only paid when legal qualifying requirements are met. The UI Division determines whether, and in what amount, an individual is eligible to collect benefits. The UI program is a federal-state insurance system established by the Social Security Act of 1935.

### Who pays for UI benefits?

Employers are required to pay UI contributions on the wages of each employee up to the annual taxable wage base, unless specifically excluded under the law. The contributions are deposited into a trust fund, and withdrawn for purposes of paying benefits to eligible individuals. There is no deduction from the employee's wages for this.

### How much does an employer pay in UI contributions?

Since new employers do not have any reserves when they first register because they have not made any contributions, they are assessed a flat UI contribution rate and a .01% for Employment & Training (E&T) Assessment. This rate is applied for approximately two (2) years until they qualify for a rating based on their actual experience.

Contribution/experience rates can vary from 0% to a maximum 6.6% and are dependent upon several factors: annual rate schedule in effect, total payroll, unemployment contributions paid and benefits charged to your account.

### If an employee quits or is fired, can he/she collect UI benefits?

If the UI Division determines that the employee either quit *without good cause* or was fired for *misconduct* in connection with his work from his *last employer* (or in some cases his next to last employer), the employee will not be eligible for benefits. Accurate employer records and participation in the benefits process are vital to the division's ability to make the correct decision. Any decision made by the UI Division may be appealed to the Employment Security Appeals Referees' Office.

### If eligible, how much can an employee collect in UI benefits?

The maximum amount of benefits potentially payable to an eligible individual is 26 weeks within a one year period. The weekly amount depends on the wages paid to the individual in recent employment, not to exceed the state maximum weekly benefit amount calculated on an annual basis.

**Do I need to file any reports? What are the due dates to file the reports?**

Employers must file a Quarterly Wage, Contribution and Employment and Training Assessment Report quarterly report, "Form UC-B6". The report and any taxes owed are due on the last day of the calendar month following the close of the calendar quarter for which they are payable. (See schedule below.)

<b>Calendar Quarter:</b>		<b>Due No Later Than:</b>
January, February, March	(1st quarter)	April 30
April, May, June	(2nd quarter)	July 31
July, August, September	(3rd quarter)	October 31
October, November, December	(4th quarter)	January 31

The social security number, employee name, and total wages paid to each employee for the quarter must be reported separately. The use of substitute forms or photocopies are prohibited.

**What happens if I fail to file the Form UC-B6?**

Employers who fail to file Form UC-B6 for any quarter may be assigned the maximum tax rate of 5.4% to 6.6% depending on the contribution rate schedule for the year.

**Can I file the Form UC-B6 via the Internet?**

Yes! The **HUI EXPRESS** provides businesses with a convenient way to file quarterly UI reports and pay UI contributions online! Best of all, it's free! Go to: <http://labor.hawaii.gov/ui> to get started.

**What if I have no payroll?**

Active employers with no payroll must continue to submit **Form UC-B6** with **"No Payroll,"** until such time that there are no longer employees and/or the business has terminated.

**IMPORTANT NOTE:** Please do not mail UI payments with General Excise, Employer's Withholding, Transient Accommodations or other State Tax Office reports.

**How do I report new hires?**

You must report newly hired employees or rehired employees who were previously separated for at least 60 consecutive days to the Hawaii Child Support Enforcement Agency (CSEA) **within 20 days** after the date that the employee starts work. You can either mail or fax a copy of the employer's IRS Tax Withholding (Form W-4) to the CSEA at:

Child Support Enforcement Agency  
New Hire Reporting Directory  
601 Kamokila Blvd., Suite 251  
Kapolei, HI 96707  
FAX - (808) 692-7001

**Contact Information for the Unemployment Insurance Division**

Visit our web site at: <http://labor.hawaii.gov/ui>

Email: [dlir.ui.empsvc.tax@hawaii.gov](mailto:dlir.ui.empsvc.tax@hawaii.gov)

Or contact:

**OAHU**

Employer Services  
830 Punchbowl Street, Room 437  
Honolulu, HI 96808  
Phone: (808) 586-8926 or (808) 586-8913  
Fax: (808) 586-8929

**MAUI**

54 S. High Street, Room 201  
Wailuku, HI 96793-2198  
Phone: (808) 984-8400  
Fax: (808) 984-8444

**EAST HAWAII**

1990 Kinoole Street  
Hilo, HI 96720  
Phone: (808) 974-4086  
Fax: (808) 974-4085

**WEST HAWAII**

P.O. Box 167  
Kealahou, HI 96750  
Phone: (808) 322-4822  
Fax: (808) 322-4828

**KAUAI**

3-3100 Kuhio Highway, Room C-12  
Lihue, HI 96766-1153  
Phone: (808) 274-3043  
Fax: (808) 274-3046

**MOLOKAI / LANAI**

55 Makaena Street, Room 4  
Kaunakakai, HI 96748  
Phone: (808) 553-1750  
Fax: (808) 553-1753

## **PAYING YOUR EMPLOYEES**

### **What is the minimum wage in Hawaii?**

The law requires you to pay a minimum wage of \$7.25 per hour. Certain employees who earn tips can be paid \$7.00 per hour. Some exceptions apply. Check the Wage Standards Division website at <http://labor.hawaii.gov/wsd> or call 808-586-8777.

### **What are the overtime rules?**

Employees must be paid overtime for time worked over 40 hours per week. Overtime is equal to one and a half times the regular pay rate. Some exceptions apply. Check the Wage Standards Division website at <http://labor.hawaii.gov/wsd> or call 808-586-8777.

### **How often must employees be paid?**

You must pay employees at least twice monthly and within 7 days after the end of each pay period.

A pay statement must be provided at each pay day with the following information: Pay period, date of payment, regular and overtime hours worked, regular hourly rate, amount and purpose of all deductions, total gross compensation, total net compensation.

If you are bidding on State or county public works construction projects you will be required to pay prevailing wages and overtime as stated in **Chapter 104, Hawaii Revised Statutes**. A Wage Rate Schedule for all Hawaii classifications is available at: <http://labor.hawaii.gov/rs>

### **How long must payroll records be kept?**

You must keep accurate time and payroll records for each employee for six years. (See **Chapter 388, Hawaii Revised Statutes** for more information).

### **What else must I know about wages?**

You cannot make deductions from employee wages without their written authorization. (See **Chapter 388, Hawaii Revised Statutes**, for more information.)

You must pay wages in full at the time of employee discharge, or not later than the next working day.

Notify employees in writing of vacation, sick leave and holiday policies and in advance of any changes to pay rates and policies. (See **Chapter 388, Hawaii Revised Statutes**, for more information.)

### **Can employees take unpaid leave?**

Employees may be allowed to take up to four weeks of unpaid leave to care for a family member with a serious health condition or on the birth or adoption of their child. (See **Chapter 398, Hawaii Revised Statutes**, for more information.)

### **What other things should I be aware of?**

Employers cannot discharge or suspend an employee because of a work injury. (See **Part III, Chapter 378, Hawaii Revised Statutes**, for more information.)

Employers cannot set aside requirements of the law by making private agreements with their employees.

Employers cannot charge an employee or prospective employee a job application fee.

Employers cannot require employees to take a lie detector test.

## **CHILD LABOR LAWS**

### **What are the child labor laws in Hawaii?**

**Certificates of Employment** for 14 and 15-year olds, and **Certificates of Age for 16 and 17 year olds** are issued by the Wage Standards Division.

14 and 15 year-old employees need a **Certificate of Employment** that employers must keep on file. To obtain a **Certificate of Employment**, information is needed from both the employer and from the 14 or 15 year-old. Applicants must fill out the CL-1 Form. Applications for this certificate can be downloaded at: <http://labor.hawaii.gov/wsd/forms>. Completed applications may be faxed to the Wage Standards Division.

During school days, 14 and 15 year-olds can work only 3 hours per day between 7 a.m. and 7 p.m. On non-school days, they may work up to 8 hours between 6 a.m. and 9 p.m. They must be given a break of at least 30 consecutive minutes, every five hours.

Children under the age of 14 may be employed in theatrical employment. You may view the special rules pertaining to this type of employee on our website at: <http://labor.hawaii.gov/wsd/child-labor>, or contact the Wage Standards Division.

16 and 17 year-old employees need to have and carry with them a **Certificate of Age**. Employers need to record the certificate number in their files for such employees. 16 and 17 year olds can apply for this certificate on-line at: <http://labor.hawaii.gov/wsd/child-labor>

**Contact Information for the Wage Standards Division**

Visit our website at: <http://labor.hawaii.gov/wsd>

Email: [dlir.wages@hawaii.gov](mailto:dlir.wages@hawaii.gov)

Or contact:

**Oahu**

830 Punchbowl Street, Room 340  
Honolulu, HI 96813  
Phone: (808) 586-8777  
Fax: (808) 586-8766

**Maui / Molokai / Lanai**

2264 Aupuni Street  
Wailuku, HI 96793  
Phone: (808) 984-2075  
Fax: (808) 984-2071

**Hilo**

75 Aupuni Street, Room 108  
Hilo, HI 96720  
Phone: (808) 974-6464  
Fax: (808) 974-6460

**Kona**

Post Office Box 49  
Kealahou, HI 96750  
Phone: (808) 322-4808  
Fax: (808) 322-4813

**Kauai**

3060 Eiwa Street, Room 202  
Lihue, Hawaii 96766-1 887  
Phone: (808) 274-3351  
Fax: (808) 274-3355

## SAFE AND HEALTHFUL WORKPLACE

### What is the intent of the Occupational Safety and Health law?

The Hawaii Occupational Safety and Health (HIOSH) laws and regulations are intended to assure safe and healthful working conditions for Hawaii's workers. (See **Chapter 396, Hawaii Revised Statutes.**)

### What jurisdiction does the HIOSH have in Hawaii?

The HIOSH division operates the state's safety and health program and administers the "**Hawaii State Plan Program**". This program has jurisdiction over most employment in the state in both the private and public sector, with some exceptions (such as domestic workers, U.S. Postal Service, and maritime activity – e.g. shipbuilding, marine terminals and long shoring). The program also has jurisdiction over private sector employment on Federal lands, including military bases, with the exception of any employment in Hawaii's national parks.

### What is required of the employer?

Employers are responsible for:

- Furnishing employees with workplaces that are safe and free from recognized hazards
- Creating reports as required by the rules and regulations contained in **Chapter 52.1 Part 1**
- Maintaining required records on employee injuries and illness reports, employee exposure, and medical surveillance
- Posting information as required in the **Hawaii Administrative Rules Section 12-51 -2**, the **OSHA Form 300A**, and any HIOSH citations that are issued to your company.

### How are the HIOSH laws and regulations enforced?

Occupational safety and health laws and regulations are enforced through workplace inspections conducted by HIOSH compliance officers. Inspections are conducted without advance notice. Where violations are found, citations and fines may be issued.

Employers have several options after an inspection is conducted and a citation is received. The HIOSH inspectors will explain those options to you. Employers can request an informal conference with the HIOSH division to discuss the citation prior to paying any fines.

Scheduled inspections are conducted for industries that are considered "high-hazard." These "high-hazard" industries are identified in the **HIOSH Annual List of Emphasis Industries for Inspection**. Inspections are also conducted in response to an accident, complaint, referral or results from a previous inspection.

**What is the intent of the Boiler and Elevator Safety law and how is it enforced?**

The **Boiler and Elevator Safety Law** is intended to provide for the safe installation, operation and use of boilers, pressure systems, amusement rides, elevators and kindred equipment in the State of Hawaii. Standards are adopted and enforced through inspection audits. Permits to install, modify and operate these items are issued if the equipment is found to be safe in accordance with these standards. Permit forms are available on the H IOSH website at: <http://labor.hawaii.gov/hiosh/home/boilers-elevators-amusement-rides/>

**Does the HIOSH division provide consultative services to employers?**

Yes! The HIOSH **Consultation and Training Branch** offers free on-site consultations for employers in order to identify workplace hazards. They can also recommend corrective actions and suggestions to prevent future hazards.

**Contact Information for the Hawaii Occupational Safety and Health Division**

Visit our website at: <http://labor.hawaii.gov/hiosh>

Email: [dlir.hiosh@hawaii.gov](mailto:dlir.hiosh@hawaii.gov)

Or contact:

**Oahu**

830 Punchbowl Street, Room 425  
Honolulu, HI 96813  
Phone: (808) 586-9100  
Fax: (808) 586-9104

**Kona**

Post Office Box 49  
Kealahou, HI 96750  
Phone: (808) 322-4808  
Fax: (808) 322-4813

**Hilo**

75 Aupuni Street, Room 108  
Hilo, HI 96720  
Phone: 974-4000, ext. 6-9100  
Fax: (808) 974-6460

**Kauai**

3060 Eiwa Street, Room 202  
Lihue, Hawaii 96766-1 887  
Phone: (808) 274-3141, ext. 6-9100  
Fax: (808) 274-3351

**Maui**

2264 Aupuni Street  
Wailuku, HI 96793  
Phone: (808) 984-2400, ext. 6-9100  
Fax: (808) 984-2071

**Molokai / Lanai**

1 (800) 468-4644, ext. 6-9100

## PLANT/BUSINESS CLOSING NOTICE

### What do I need to do if my business closes?

To protect employees from the effects of unexpected and sudden layoffs or terminations resulting from closings, partial closings, and relocations due to sale, transfer, merger, and/or other business takeover or transaction of business interests, bankruptcy or other close of business transaction, employers in covered businesses (a business that employs at any time in the preceding 12-month period, 50 or more persons) are required to do the following:

- Give written notice, not less than 60 calendar days prior to the closing, partial closing, or relocation to each employee and to the DLIR Director
- Provide each affected employee who applies for and is found eligible for unemployment compensation benefits a dislocated worker allowance for a total of four weeks, and
- Pay all wages, benefits, and other forms of compensation due to each employee on the effective date of a closing, partial closing, or relocation. (See **Chapter 394B, H.R.S.; Hawaii Administrative Rules, Title 12, Subtitle 6, Chapter 506**).

Notices should include the following:

- Name and address of the employer and contact person
- Date(s) of the closing, partial closing, or relocation as these terms are defined in **Chapter 394B, H.R.S.**
- Number of employees at the covered establishment, and
- Number of employees to be laid off or terminated.

## FINDING WORKERS

### Can the DLIR help me find workers for my business?

Yes! To meet your workforce needs, we encourage you to use our state-of-the-art job matching system for Hawaii, **HireNet Hawai'i**. With HireNet Hawaii, you can:

- Post your company's job openings at no cost
- Find candidates who meet your company's needs
- Save thousands of dollars in classified advertisement costs

Check out this exciting system at: <http://www.hirenethawaii.com>

**Contact Information for the Workforce Development Division**

For more information about assistance to employers facing a business closure, or for more information about HireNet Hawaii, please:

Visit our website at: <http://labor.hawaii.gov/wdd>

[Email: dlir.workforce.development@hawaii.gov](mailto:dlir.workforce.development@hawaii.gov)

Or contact:

**Oahu**

830 Punchbowl Street, Room 329  
Honolulu, HI 96813  
Phone: (808) 586-8877  
Fax: (808) 586-8822

**Kapolei**

601 Kamokila Boulevard, Room 588  
Kapolei, Hawaii 96707  
Phone: (808) 692-7630  
Fax: (808) 692-7643

**Kona**

74-5565 Luhia Street  
Kailua-Kona, HI 96740  
Phone: (808) 327-4770  
Fax: (808) 327-4774

**Maui**

2064 Wells Street, #108  
Wailuku, HI 96793  
Phone: (808) 984-2091  
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**Waipahu**

94-275 Mokuola Street, Room 300  
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**Hilo**

1990 Kinoole Street, Room 102  
Hilo, HI 96720  
Phone: (808) 981-2860  
Fax: (808) 981-2880

**Kauai**

3-3100 Kuhio Highway, C-9  
Lihue, Hawaii 96766  
Phone: (808) 274-3056  
Fax: (808) 274-3059

**Molokai / Lanai**

55 Makaena Place  
Kaunakakai, HI 96748  
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## **EMPLOYEE RIGHTS**

### **What is employment discrimination?**

Hawai'i law prohibits discrimination (unequal treatment) in employment practices and policies, including:

- Job advertisements
- Hiring practices (application forms, interviews, selection)
- Referrals by employment agencies
- Salary, job classification, work duties, working conditions & benefits
- Promotion, demotion, suspension, layoff, recall, or termination

### **Discrimination is prohibited on the basis of:**

- Sex
- Race
- Ancestry/national origin
- Religion\*
- Color
- Disability
- Age
- Marital status
- Assignment of income for child support
- Arrest & court record\*\*
- National Guard participation
- Sexual orientation
- Breast feeding

\*Exemptions for religious or denominational organizations which may give preference to individuals of the same religion for certain types of jobs.

\*\*Exceptions include employer inquiry into and consideration of a record of criminal conviction not less than ten years old, excluding periods of incarceration, for criminal offenses that are rationally related to the duties and responsibilities of the job. Inquiry into and consideration of such records can only be made after a conditional offer of employment is made. However, some employers, such as schools, banks and government, can make an inquiry into criminal convictions before making an offer of employment.

### **Who is covered?**

The Hawai'i Civil Rights Commission has jurisdiction over complaints against:

- Government and private employers of one or more employees (except the federal government)
- Employment agencies and placement services
- Labor organizations

### **What does the law prohibit on job applications and during interviews?**

The law prohibits pre-employment practices or policies which:

- 1) Asks information from applicants (prior to employment) concerning the applicant's race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest and court record;
- 2) Result in the disproportionate screening-out of members of such protected groups; or
- 3) Are not relevant to successful job performance.

It is the employers right to establish job-related requirements and to seek the most qualified individual for the job. Therefore, the employer should only ask questions that help determine the applicant's qualifications for employment.

### **What is sexual harassment in the workplace?**

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors or other unwelcome visual, verbal, or physical conduct of a sexual nature. This may include many forms of offensive behavior such as:

- Unwanted sexual advances
- Offering jobs, promotions, or benefits in exchange for sexual favors
- Threatening to demote, fire, or withhold benefits if an employee protests, refuses, or ignores sexual advances
- Unwanted leering, making sexual gestures, or displaying sexually suggestive or graphic objects, pictures, cartoons, or posters
- Unwanted derogatory comments, slurs, jokes, suggestive or obscene letters or notes
- Unwanted touching, assault, impeding or blocking of movement

Employers are responsible for acts of sexual harassment committed by themselves, their agents or supervisory employees.

Employers are also liable for sexual harassment committed by other employees (and customers or other third parties), if they know, or should have known, of the conduct and fail to take immediate and appropriate corrective action.

### **What is pregnancy discrimination?**

Employers are prohibited from refusing to hire an applicant because she is pregnant, or discharging or penalizing an employee in the terms, conditions, and privileges of employment because she is pregnant.

Employers are required to:

- Make reasonable accommodations such as: allowing a pregnant employee to sit instead of stand while working; excusing from or providing assistance for lifting tasks; allowing time off for doctor's appointments.
- Provide leave, with or without pay, for a reasonable period of time for disabilities due to pregnancy, childbirth, or related medical conditions. A reasonable period of time is determined by the employee's physician with regard to her physical condition and her specific job requirements.
- Return employees to their original jobs or positions of comparable status and pay (without loss of accumulated service credits and privileges) after leave for a reasonable period of time for disabilities due to pregnancy, childbirth or related medical conditions, as determined by the employee's physician.

### **What accommodations are required for employees with disabilities?**

Employers are required to provide reasonable accommodations for a qualified employee with a disability which allows that person to perform their essential job functions. An accommodation is reasonable if it does not impose an undue hardship on the employer's business.

For information on types of accommodations, and local and national experts and resources, contact the state Disability and Communication Access Board at (808) 586-8121. (Note: This number is for voice or TTY calls).

### **What religious accommodations are required?**

Employers are required to reasonably accommodate an employee's religious practices unless an undue hardship would result. Two examples of accommodating religious practices are:

- Allowing the employee to observe a religious holiday by trading workdays with a qualified co-employee who agrees on a voluntary basis, and
- Granting a flexible work schedule to accommodate religious practices.

## **Contact Information for the Hawaii Civil Rights Commission**

Visit our website at: <http://labor.hawaii.gov/hcrc>

Email: [dhir.hcrc.infor@hawaii.gov](mailto:dhir.hcrc.infor@hawaii.gov)

Or contact:

### **Oahu**

830 Punchbowl Street, Room 411

Honolulu, HI 96813

Phone: (808) 586-8636

Fax: (808) 586-8655

### **Hawaii**

Phone: (808) 974-4000, ext. 6-8636#

### **Maui**

Phone: (808) 984-2400, ext. 6-8636#

### **Kauai**

Phone: (808) 274-3141, ext. 6-8636#

### **Lanai and Molokai**

Phone: 1 (800) 468-4644

***The information contained in this document provides general background information on Hawaii labor and employment law and is not intended to serve as a substitute for legal counsel. For specific legal advice on individual situations, please consult an attorney.***